

REMARKS

Reconsideration and allowance of the above-identified Application in view of the above amendments and the following remarks are respectfully requested.

As an initial matter, Applicant respectfully points out that in the Office Action reference is made to, e.g., "(18) Summary of Invention", and "(21) of Detailed Description." It is not clear to Applicant exactly what part of these sections are referenced and reference to specific columns and lines would be helpful in that regard.

Claims 1-8 and 10-14, claim 9 being cancelled herein.

Claims 1-5 and 10-13 are rejected under 35 U.S.C. §102(b) as being anticipated by Marino. Applicant respectfully submits that the amendments to claims 1 and 10 obviate the rejection.

Claim 1 has been amended to recite that each machined hole has a chamfered surface and that the holes are dimensioned to accept a filament.

Marino does not teach or suggest either of these limitations. First, as admitted in the Office Action, Marino is silent with respect to a chamfer. The reference relied upon in the Office Action as teaching a chamfer, Wohlstadter, is not prior art with respect to the present application. The filing date of Wohlstadter is June 28, 2002 while the present application was filed March 24, 2002. While Wohlstadter claims priority to a provisional application filed June 29, 2001, there is no evidence that the feature relied upon in the Office Action was disclosed in an enabling manner in that 2001 filing. To the extent that the Office relies upon the disclosure of the 2001 application, Applicant respectfully requests that specific reference to that application be provided.

In particular, as admitted in the Office Action, Marino is silent regarding filaments. Marino is in contrast directed to manipulating test tubes. Test tubes are generally much larger in diameter than filaments such as capillary tubes, optical fiber, wire and pipettes as described in the specification at paragraph 0018. Thus, the Marino device would not be suited to use with filaments as recited in claim 1. Applicant respectfully submits that there is no evidence in the record in support of the proposition that the term "filament" as recited in claim 1, can be reasonably construed to read on the test tubes of Marino.

Claims 2-8 depend from claim 1 and are patentable for at least the same reasons as claim 1 as well as for their additional recitations.

With respect to claim 3-5, Applicant submits that Marino is not capable of accommodating capillary tubes, optical fibers and light guiding capillary tubing. As may be

seen in Figures 8-10 of Marino (and as described at col. 9, ln. 57- col. 10, ln. 29), the Marino device is only suited for use with tubes having a diameter close to the diameter of the holes in the Marino plates. The travel of the middle plate of Marino is dependent on the bulge 208 of the cam 160 and is adapted, as shown in Fig. 8, for use with test tubes only. No mention is made of relatively narrow-diameter and fragile filaments.

Claim 10 has been amended to clarify what is meant by permitting contact with a sample. While the test tubes of Marino may be internally in contact with a sample of cells that has been placed therein, the present invention is quite different in this regard. Marino merely teaches placing a plurality of test tubes into a holder and inserting that holder into a heating block. There is no teaching or suggestion that the tubes should be manipulated together with the holding device to be brought into contact with a sample. Test tubes are simply not used in a manner in which the tube is brought into contact with a sample at all. In contrast, test tubes have samples placed into them through an opening at the top. Claim 10 recites that the filaments are manipulated to permit contact between the filament and the sample thereby drawing the sample in or adhering the sample to the filament. This is quite different from the method of Marino. Likewise, claim 12 has been amended to clarify that the dispensing is dispensing the sample from the filament, which Applicant submits is different from the transfer and release of the test tubes themselves as described in Marino.

Claims 11 and 13-14 are patentable for at least the same reasons as claim 10 from which they depend. Applicant respectfully requests that the rejections be withdrawn.

The additional references, Bernstein and Gold are noted, but Applicant submits that they do not overcome the deficiencies of Marino as discussed above.

Applicant has addressed all the Examiner's rejections and objections and respectfully submits that the application is in condition for allowance. A notice to that effect is earnestly solicited.


If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

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Respectfully submitted,

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